



WEB COPY

Crl.R.C.(MD)No.425 of 2020:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD)Nos.425 & 558 of 2020

&

Crl.M.P(MD)Nos.3744 & 4879 of 2020

Crl.R.C. (MD)No.425 of 2020:

M.Vaitheeswaran

... Petitioner/Respondent/
Respondent

Vs.

1. Kowsalya
2. Abarna
3. Praveen Kumar

4. The Chief Security Commissioner,
Railway Protection Force,
No.6, 6th Floor, Moor Market Complex,
Near Central Railway Station,
Chennai.

... Respondents/Garnishee

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed in Cr.M.P.No.187 of 2020 in M.C.No.294 of 2014, dated 06.07.2020, on the file of the Family Court, Trichy.

For Petitioner : Mr.K.Sivabalan

For Respondents : Mr.D.Boopal for R.1 to R.3

Crl.R.C. (MD)No.558 of 2020:

M.Vaitheeswaran

... Petitioner/Respondent

Vs.

1. Kowsalya
2. Abarna
3. Praveen Kumar

... Respondents/Petitioners

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order passed in M.C.No.294 of 2014, dated 18.03.2019 on the file of the Family Court, Trichy.



For Petitioner : Mr.K.Sivabalan
For Respondents : Mr.D.Boopal

COMMON ORDER

Crl.R.C.(MD)No.425 of 2020, has been filed to set aside the order passed in Cr.M.P.No.187 of 2020 in M.C.No.294 of 2014, dated 06.07.2020, on the file of the Family Court, Trichy.

2. Crl.R.C.(MD)No.558 of 2020, has been filed to set aside the order passed in M.C.No.294 of 2014, dated 18.03.2019 on the file of the Family Court, Trichy.

3. The petitioner is the husband and he got married the first respondent on 31.12.1997. After their marriage, they gave birth to the second and the third respondents herein. They lived together till 2014. While being so, on 21 07.2014, there was some misunderstanding and harassment made by the petitioner and as such, now the respondents were driven out from the matrimonial home. Immediately, the respondents filed the petition for maintenance seeking maintenance of Rs.7,000/- (Rupees Seven Thousand only) each.

4. On the side of the respondents they examined P.W.1 and P.W.2 and marked Exs.P.1 to P.20. On the side of the petitioner he examined R.W.1 and R.W.2.

5. A perusal of the oral and material evidence, the trial Court ordered a maintenance of sum of Rs.5,000/- (Rupees Five Thousand only) each to the respondents payable by the petitioner herein.

6. The learned counsel appearing for the petitioner would submit that the petitioner is duty bound to maintain his wife and children. However, he is working as a Constable in Railway Police Force and he is drawing a salary of Rs.47,000/- (Rupees Forty Seven Thousand only) as net salary and is receiving only a meager amount which has been taken out as salary.

7. A perusal of records revealed that admittedly, the first respondent is the wife and respondents 2 and 3 are children born out of the wedlock between the petitioner and the first respondent herein. Further, admittedly, the respondents are living separately from the petitioner from 27.07.2014. The first respondent had no independent income to maintain herself and children and they are depending on their parents. Even though the petitioner issued a legal notice and filed counter stating that he is always ready and willing to take care of the welfare and interest of the children, the petitioner did not take any steps to live with the respondents herein. In fact, he also failed to file a petition for restitution of conjugal rights. Insofar as the income is concerned, the petitioner is working as a Constable in Railway Police Force. He also produced the salary slip of the month of December 2020 and



thereby, he was receiving a salary a sum of Rs.47,000/- (Rupees Forty Seven Thousand only).

8. The learned counsel for the petitioner would submit that quantum of maintenance may be reduced in accordance with the salary by the trial Court order, dated 18.03.2019. However, the petitioner failed to pay the maintenance. As such, the respondents were constrained to file the petition in Crl.O.P(MD)No.187 of 2020. The Court below ordered attachment of the salary of 1/3 rd per month of the petitioner.

9. In view of the above, this Court is inclined to reduce the quantum of maintenance payable by the petitioner reasonably. Accordingly, the award of maintenance is hereby reduced from Rs.5,000/- (Rupees Five Thousand only) to Rs.3,500/- (Rupees Three Thousand and Five Hundred only) payable as monthly maintenance to each of the respondents herein payable by the petitioner. Accordingly, the Crl.R.C(MD)No. 558 of 2020 is partly allowed.

10. In view of the order passed in Crl.R.C(MD)No.558 of 2020, the order passed in Cr.M.P.No.187 of 2020 by the Court below, does not call for any interference. Accordingly, Crl.R.C(MD)No.425 of 2020 is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To:-

1. The Judge, Family Court, Trichy.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 3. The Section Officer, Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai. (2 Copies)
- +2 CC to M/s.K. SIVABALAN, Advocate (SR-16589,16595[F] dated 05/04/2022)**

Crl.R.C. (MD)Nos.425 & 558 of 2020

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Date:05.04.2022